

Application for permanent Waiver

original

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
445 12th Street, SW
Washington, DC 20554

Received & Inspected

APR 19 2012

FCC Mail Room

**Re: Petition for Exemption from Closed Captioning Requirements
CG Docket No. 06-181, CGB-CC-_____**

Introduction

Describe the background of the production company: write one paragraph or more providing details on where the production company is, when it was founded, and how it serves the community.

My name is Doug Gilchrist. I have a master's degree in art and I was a painter until 1976 when I bought my first video equipment. Since then I have been totally involved in television production. In the late 70s I produced music videos for bands before the birth of MTV. In 1980, I spent a year doing courtroom sketches and video of the trial of Robert Garwood for CNN and several other national news organizations. During the early 80s I produced training videos of cable and fiber optic splicing for American Spliceo, a company building cable systems across the country and in England. In 1982, Ben Stone and I produced a series of timeless features, along the line of Charles Kuralt's "On The Road" features that we marketed to various TV stations. 1984 I began Hatteras Television Productions with a partner that did the writing and narrating. We produced a real estate program that aired on the local CBS affiliate every Saturday morning at 7am, for over 2 years. That program showcased homes and condos for sale here on the coast interspersed with features about the area. In 1986, my partner got a "real job" at East Carolina and I continued on my own doing video productions for various clients. In 1990 I began leasing

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time from Time Warner Cable on their local/leased access channel 10 and produced programming and provided my own automated playback. I called it DO-WHAT and produced commercials and features on things to do and places to go here on the NC Southern Outer Banks from Emerald Isle to Ocracoke Island. Do-what was successful for 18 years because of the frequency of its' air time and location on the lower tier of channels that everyone had. In 2008, Time Warner Cable canceled my contract and discontinued local programming on channel 10 when they no longer were required, by franchise agreement, to provide a local origination channel. I was offered the opportunity to lease time with less frequency and for considerably more money on their channel 26 that carried stuff for sale 24/7 except when do-what popped up. It was not successful. Nobody watched that channel so after over a year of wasting money there, I dropped my contract with Time Warner Cable all together. Just over a year ago I decided to go back to broadcast so do-what could reach a larger area. I found a friend at Fox 8 and 14, and began broadcasting do-what there every Thursday morning from 7:30 to 8am. Since my split with Time Warner Cable channel 10 in 2008, Hatteras Television Productions (me) has been in serious financial condition to the point that my home is in the foreclosure process. Tourism here is very seasonal and is already underway and I am not yet on the air.

Describe the program generally: write one paragraph giving the FCC information on the title of the program, the substance of the program, and how it serves viewers.

Do-what is a half hour weekly program that generally contains music videos that showcase the area's beauty, videos of events happening throughout the area and ads for tourism related businesses and local attractions. Even the ads are visually enjoyable and all programming elements contain graphics that define the who, what, when and where of

each piece. People looking for a vacation destination are visually enticed to come to the coast and participate in activities, eat in restaurants, stay in motels and condos and shop in businesses that are promoted on do-what. Virtually everything I have been doing since the mid 80s has been to promote tourism here on the NC coast.

Describe the program specifically: write a paragraph describing how long each episode is, how often it airs, on what channel and at what time the show is broadcast, and who helps to produce the program. For example, does the production company hire somebody to produce the show, or is it done in house? Describe the demographics of the program.

Do-what is 28:30 in length and airs every Thursday morning on Fox 8 and Fox 14 from 7:00 to 7:30am. I am the sole producer and each week I make the 90 mile round trip to New Bern NC to deliver the finished program to the TV station. In terms of demographics, Fox 8 & 14 are on all the cable systems in 13 counties here in Eastern NC. Channel 8, being in the lower tier, reaches everyone with basic cable, rooftop antennas and even rabbit ears. Fox 14 reaches everyone with Direct TV or the Dish Network. Combined, they reach approximately 290,000 households in Eastern NC. With soaring gas prices, the proximity of these surrounding counties offers the best resource for potential vacationers and weekend visitors to the coast.

Providing captioning for this program would result in significant difficulty or expense. Thus, for the reasons set forth below, Hatteras Television Productions in Beaufort, NC hereby requests an “economically burdensome” exemption from the closed captioning rules for the do-what program pursuant to § 79.1(f) of the Commission’s rules.

At this point my program is already 2 weeks behind schedule and I have no advertisers because I didn’t know when or if I was going to start. I can’t afford the closed captioning

equipment and because of the scheduling of events that I promote on do-what, sending it out to be done would be both cost prohibitive and strategically time consuming. My ads are visually explanatory and treated like the music videos, attractions and events. A good number of people have told me that when do-what is on, they mute the program audio and listen to their favorite music while watching, so I make sure the vital information is displayed graphically on the screen. About half of the program content is music videos showing off the inherent beauty of this coastal region.

~~Provide details on the cost of closed captions:~~ describe your efforts to determine the cost of closed captioning for your program. You must verify that you obtained this cost information. Attach as exhibits any price quotations that you received, such as letters from closed captioning companies. You also must verify and document that you sought closed captioning assistance from your video programming distributors — the station(s) that air the program — including information on whether the request was accepted or rejected. Describe any other efforts to obtain additional sponsorship sources or other revenue to help finance the captioning.

I studied at least 8 sites from a Google search for closed captioning rates and requirements. The rates varied from \$6.00 to \$10.00 per minute which would be from \$171.00 to \$285 just for the closed captioning. Aside from that expense, the shipping costs back and forth plus the time delay would all be detrimental to the cost and timing of producing and airing my weekly do-what program. The Fox station does not offer closed captioning services. Since do-what is a completely produced and marketed by me and only takes my time and equipment, any routine fee and time consuming technical requirement would be more than I could bear.

If you have considered and rejected alternatives to closed captions, such as subtitles, a scroll with the text of the sermon, or some other method, provide details on the cost of these alternatives and why they were rejected.

The alternative that I already address, that is acceptable, is to put vital graphics on the screen where any explanatory information is needed.

Describe the impact that these costs would have on the program: first, give an overview of the total costs of producing the show per year and tell the FCC how much each episode costs. Attach financial documentation supporting these details. Second, indicate how much closed captioning would increase the cost of each episode. For example, if each episode costs \$500 to produce, and closed captioning would add another \$250, then note that this would increase the cost of production by 50%. Third, explain the impact that these costs would have on your ability to produce the program.

For this discussion, the key issue that the FCC will look at is: if you are required to provide captioning, will it undermine your ability to provide the program? If the additional expense will compromise your ability to continue producing the program, then state that.

Since I produce this program myself, there are no outside personnel or financial expenses other than the \$150.00 per week fee to Fox 8 & 14 to air the program. It also means that because of limited resources, any expense of additional time and fees would be prohibitive. All the component pieces of my do-what program are streamed on my website www.do-what.com so my do-what program also serves as vehicle for driving viewers to my website. Trends are increasing in the smart device access to web content and TV advertising is being diluted by the sheer volume of channels. If the cost to produce do-what

increases due to closed captioning costs, I will be forced to look completely within web advertising to drive viewers to do-what.com and make that my sole source of ad revenues.

Financial Resources of the Program Provider

Explain the financial position of the Hatteras Television Productions: if the church has tax-exempt status, note this fact and provide documentation as an attachment. Describe (and attach documentation for) the most recent financial statements for the church. In particular, note the main sources of income for the church, and the main expenditures. Describe efforts made to solicit captioning assistance from your programming distributor (the television station), and the distributor's response.

The FCC will consider all of your financial resources—not just those allocated for the program at issue. Also, the FCC will not simply rely on the non-commercial nature of programming and the fact that you are not making money from it.

I am the program provider and my resources are limited. I am in a battle with Wells Fargo to save my home from foreclosure and the do-what program's potential revenue may be my saving grace if I can get it up, running and marketed before all my clients have spent their advertising budgets. I'm having enough trouble selling ads on a program with questionable and unproven benefit for the clients, to seek a closed caption sponsor. Also, I believe the closed captioning itself would interfere with the existing graphics that are already giving the pertinent information. I emailed my sales representative from Fox about closed captioning services and this was her reply:

Hi Doug,

Happy Thursday☺ I checked with my manager and we don't offer closed captioning. Let me know if you need anything else. Have a great day.

Thank you,

Nancy Chaanine
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wcti12.com



Eastern North Carolina Broadcasting Corporation



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Type of Operations of the Program Provider

Describe the operations of Hatteras Television Productions: write a few sentences summarizing your institution's major operations and activities. Describe its major purpose – is it mainly a for-profit provider of television programming? Mainly a non-profit religious institution? The FCC will not place great weight on non-profit status, although it could still be a relevant factor to point out.

My company, Hatteras television Productions is mainly a for profit company (when the season is right and the economy is good) that produces commercials, music videos, and programming to promote the Southern Outer Banks of North Carolina from Swansboro and Emerald Isle to Ocracoke Island. Examples of my work can be viewed in the video gallery of my website www.do-what.com .

Conclusion

As shown by this Petition and its attachments, the Commission should grant a waiver of the closed captioning requirements in this case, because requiring closed captioning would be economically burdensome. The costs of captioning would be excessively high and would have a

significant impact on Petitioner's operations, undermining its ability to provide the program.

The Petitioner's type of operations and financial resources are different in kind and magnitude from a mainstream programming provider. Because of the significant difficulty and expense of providing closed captions, a waiver under § 79.1(f) is warranted. If more information is needed, please contact me at the address provided below.

Doug Gilchrist

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